

United States Senate

WASHINGTON, DC 20510

June 2, 2023

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1275 First Street, NE
Washington, DC 20002

Dear Director Chopra,

We were pleased to see the March 30, 2023 final rule amending Regulation B to implement changes to the Equal Credit Opportunity Act (ECOA) made by section 1071 of the Dodd-Frank Act, which requires financial institutions to collect and report data to the Consumer Financial Protection Bureau (CFPB) on small business credit applications. This rule will bring transparency to small business lending, fight against unlawful discrimination, increase access to fair capital, and finally shine a light on the barriers that women, minority, and other entrepreneurs face in accessing capital.

Entrepreneurs from underserved communities often face steep obstacles in accessing capital, including outright discrimination. Between 2018 and 2022, the Federal Reserve Board found that when women-owned businesses applied for a line of credit, they were more likely to receive no funding at all rather than a partial or full loan.¹ Additionally, the report found that white-owned applicant firms are more than twice as likely to receive all the financing they sought compared to Black, Asian and Hispanic-owned firms. This gap in startup capital puts minority- and women-owned small businesses at a severe disadvantage and increases their reliance on credit. At the same time, research has also documented how minority-, women-, and LGBTQ+-owned businesses are more likely to be denied loans and can pay steeper interest rates.²

The pandemic highlighted barriers to capital for entrepreneurs from underrepresented backgrounds. When nearly \$1 trillion of emergency financing was made available to small businesses through the Paycheck Protection Program, initially Black-owned and minority-owned firms were less likely to receive loans.³ In response, Congress made changes to the program, which allowed the program to better target underserved businesses such as businesses owned by self-employed individuals, minorities, women, and veterans.⁴

Implementing Section 1071 will ensure lending laws are enforced fairly, strengthening access to credit for small businesses. The data collected by CFPB will also be critical for identifying gaps and trends in lending. This information will ensure financial institutions are accountable for serving their communities, prompt new and fair credit products to reach underserved small businesses, and give Congress the tools it needs to level the playing field and create new opportunities for women-owned and minority-owned small businesses.

¹ “Availability of Credit to Small Businesses” Federal Reserve Board Publication (October 2022), <https://www.federalreserve.gov/publications/files/sbfreport2022.pdf>.

² See Minority Business Development Agency, “Disparities in Capital Access between Minority and Non-Minority-Owned Businesses: The Troubling Reality of Capital Limitations Faced by MBEs” (2010), p. 21, <https://www.mdba.gov/sites/default/files/migrated/files-attachments/DisparitiesinCapitalAccessReport.pdf>; Federal Reserve Banks of New York and Kansas City, “Small Business Credit Survey: Report on Women-Owned Firms” (2017), p. 22, <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-WomenOwnedFirms-2016.pdf>; Center for LGBTQ Economic Advancement & Research and Movement Advancement Project, “LGBTQ-Owned Small Businesses in 2021” (2022), p. 10, <https://www.lgbtmap.org/file/LGBTQ-Small-Businesses-in-2021.pdf>.

³ See Stacy Cowley, “Minority Entrepreneurs Struggled to Get Small-Business Relief Loans,” New York Times (Apr. 4, 2021), <https://www.nytimes.com/2021/04/04/business/ppp-loans-minority-businesses.html>.

⁴ “Paycheck Protection Program: Program Changes Increased Lending to the Smallest Businesses and in Underserved Locations” U.S. Government Accountability Office (September 2021), <https://www.gao.gov/products/gao-21-601>

This data is especially important given credit's critical role in small business financing. While larger companies can turn to capital markets or leverage retained earnings to fund their business, small firms typically depend on lending from financial services firms to raise funds.⁵ When small business entrepreneurs face obstacles to accessing credit, they may struggle to operate or expand their businesses. For example, the relatively small—and declining—number of banks in rural markets may limit rural small business owners' ability to finance their operations through bank lending.⁶ At a time when rural communities face an array of economic development challenges, it is even more critical to collect data on the flow of capital to entrepreneurs in these areas and provide much-needed transparency to the lending market.

The success of our economy depends on the vitality and prosperity of small businesses. When small businesses grow and succeed, we create more jobs and an economy that benefits all Americans, regardless of their economic background. We commend the CFPB for finalizing this long overdue rulemaking to fulfill a statutory mandate from Dodd-Frank and look forward to the additional transparency and increased access to fair credit this rule will bring to small business lending.

Sincerely,



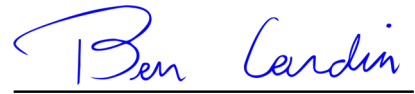
Cory A. Booker
United States Senator



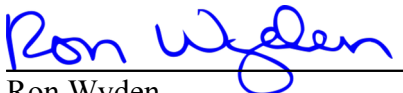
Sherrod Brown
United States Senator



Richard J. Durbin
United States Senator



Benjamin L. Cardin
United States Senator



Ron Wyden
United States Senator

⁵ Karen Gordon Mills & Brayden McCarthy, "The State of Small Business Lending" (2014), p. 17, https://www.hbs.edu/ris/Publication%20Files/15-004_09b1bf8b-cb2a-4e63-9c4e-0374f770856f.pdf.

⁶ Michelle Kumar, Dane Stangler & Jason Wiens, "Small Agency, Big Mandate" (2023), p. 32, <https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2023/03/2023-10KSBV-Small-biz-report-FINAL.pdf>.